



Caplin & Drysdale, Chartered
One Thomas Circle, NW, Suite 1100
Washington, DC 20005
202-862-5000 202-429-3301 Fax
www.caplindrysdale.com

October 4, 2012

VIA HAND DELIVERY

KUTV
Attn: Mr. Kent Crawford
299 South Main Street, #150
Salt Lake City, UT 84111

Re: Deceptive and Defamatory Advertisements on Your Broadcast Station

Dear Mr. Crawford:

I write regarding a fallacious advertisement Patriot Majority USA is repeatedly running on your broadcast station about Mayor Mia Love, a candidate for the U.S. House of Representatives in Utah's 4th Congressional District ("the Advertisement"). The Advertisement contains false information deliberately intended to mislead Utah voters and defame Mayor Love's reputation. Because the Advertisement conveys messages that are plainly disproven, the Love Campaign respectfully demands that your station immediately stop airing the Advertisement and its deceptive content.

The Advertisement recycles two bogus and already-debunked allegations about Mayor Love's record on crime—that she wanted to cut local police funding and that “violent crime increased” in Saratoga Springs while Mayor Love has held office. The *Deseret News* fact-checked some related claims and reported:

Earlier this month, Matheson said Love wanted to cut the police budget by \$54,000 in 2008-09 and that burglaries went up 382 percent that year. According to the city, the council actually allocated \$50,000 more for the police and burglaries rose from a total of 30 to 54.¹

A recent ad by another left-wing group, Center Forward PAC, also attacked Mayor Love making claims similar to those in the Patriot Majority USA advertisement on your station. Upon further investigation, *The Salt Lake Tribune* concluded:

¹ Dennis Romboy, *Saratoga Springs Residents Counter Matheson Claims about Safety, Taxes*, DESERET NEWS (Sept. 24, 2012), available at <http://www.deseretnews.com/article/865563057/Rep-Jim-Matheson-Mia-Love-go-after-each-other-in-dueling-news-conferences.html?pg=all>.

But the data doesn't actually bear out the claim. The chart above [see Attachment A] shows that the crime rate in Saratoga Springs is considerably lower than the rest of Utah County and is roughly a third of what the crime rate is statewide.²

Even Mayor Love's opponent, Congressman Jim Matheson, has conceded that these claims are inaccurate.³

The Advertisement also grossly distorts Mayor Love's position on funding for police activities, claiming she would "slash funding" to "catch sex offenders, fight gangs and arrest drug dealers." In fact, Mayor Love's position is not that we should do away with funding for these areas, but rather that decisions about how to fund law enforcement are best made at the local level, not by bureaucrats in Washington.

As you know, your broadcast station is not obligated to air advertisements sponsored by non-candidates, such as Patriot Majority USA.⁴ Your station therefore not protected from legal liability for airing a false and misleading advertisement. In fact, knowingly airing falsehoods, like those peddled in the Advertisement, runs counter to a Federal Communications Commission licensee's duty to the public⁵ and exposes your station to possible legal liability.⁶

Your station has a legal responsibility to review and eliminate any false, misleading, or deceptive communications broadcast over your airwaves. The Love Campaign urges you to stop these false and malicious attacks immediately by removing the Advertisement from your station's advertising rotation. The Love Campaign further requests that you reject any attempts by Patriot Majority USA to purchase time in the future in order to avoid the publication of additional misleading materials.

² Robert Gehrke, *Crime Wave in Saratoga Springs?*, THE SALT LAKE TRIBUNE (Sept. 29, 2012), available at <http://www.sltrib.com/sltrib/blogsoutofcontext/54994835-64/crime-saratoga-springs-budget.html.csp> (emphasis added).

³ Dennis Romboy, *Saratoga Springs Residents Counter Matheson Claims about Safety, Taxes*, DESERET NEWS (Sept. 24, 2012) ("Matheson said Monday his [crime] figures were incorrect."); Robert Gehrke, *Crime Wave in Saratoga Springs?*, THE SALT LAKE TRIBUNE (Sept. 29, 2012) ("Matheson made a claim a few weeks ago, asserting that burglaries increased nearly 400 percent in Saratoga Springs in one year. He has since said he was wrong about those numbers.")

⁴ *Columbia Broadcasting Sys., Inc. v. Democratic Nat'l Comm.*, 412 U.S. 94 (1973); *Nat'l Conservative Political Action Comm.*, 89 F.C.C. 2d 626 (1982).

⁵ See, e.g., Public Notice: *Licensee Responsibility with Respect to the Broadcast of False, Misleading or Deceptive Advertising*, 74 F.C.C. 2nd 628 (Nov. 7, 1961) (Broadcasting licensees must assume responsibility for all material which is broadcast through their facilities. . . . With respect to advertising material the licensee has the additional responsibility to take all reasonable measures to eliminate any false, misleading or deceptive matter. . . . This duty is personal to the licensee and may not be delegated.")

⁶ See *Felix v. Westinghouse Radio Stations, Inc.* 186 F.2d 1 (3d Cir. 1950), cert. denied, 341 U.S. 909 (1951) (holding that broadcasters can be sued for defamation over content of political advertisements); see also *Farmers Educ. & Coop. Union, North Dakota Div. v. WDAY, Inc.*, 360 U.S. 25 (1959) (holding that broadcasters are protected from libel only in the case of a *candidate*).

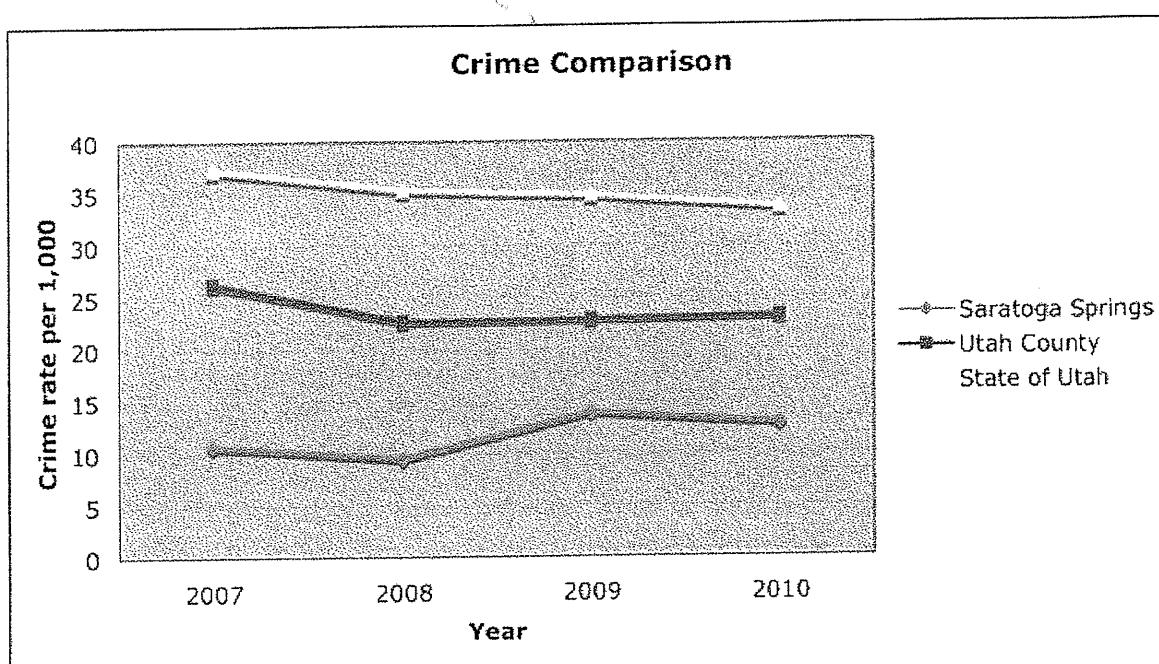
Thank you for your prompt attention to this matter. Please contact me at your earliest convenience (202-862-5046 or msanderson@capdale.com) to advise as to your station's actions with respect to the Advertisement.

Sincerely,



Matthew T. Sanderson
Caplin & Drysdale, Chartered

Attachment A



Source: Robert Gehrke, *Crime Wave in Saratoga Springs?*, THE SALT LAKE TRIBUNE (Sept. 29, 2012), available at <http://www.sltrib.com/sltrib/blogsoutofcontext/54994835-64/crime-saratoga-springs-budget.html.csp>.